



September 10, 2024

Ms. Phyllis K. Fong
USDA, Office of Inspector General
Room 117-W Jamie Whitten Bldg
1400 Independence Avenue SW
Washington, DC 20250

RE: Request for Investigation of the National Organic Program

Dear Ms. Fong,

OrganicEye, a tax-exempt public interest group acting as an organic industry watchdog, requests that the Office of Inspector General initiate an investigation into the activities of the USDA's National Organic Program (NOP).

It is the position of OrganicEye that numerous NOP actions – and inactions – indicate the NOP is failing to enforce the intent and the letter of the Organic Foods Production Act of 1990 (OFPA) requiring that an accredited certification agent must be free from conflicts of interest as they pertain to Quality Certification Services (QCS) and Florida Organic Growers (FOG).

The regulations we are citing apply to accredited certifying agents, of which FOG/QCS is one, and any employee, inspector, contractor, or other personnel of that certifying agent.

The pertinent sections of the two regulations are reproduced here:

7 USC 6515: Requirements of certifying agents includes the following points regarding conflicts of interest:

Any certifying agent shall not:

(1) carry out any inspections of any operation in which such certifying agent, or employee of such certifying agent has, or has had, a commercial interest, including the provision of consultancy services;

(2) **accept payment, gifts, or favors of any kind from the business inspected other than prescribed fees** [emphasis added]; or

(3) provide advice concerning organic practices or techniques for a fee, other than fees established under such program.

7CFR 205: 205.501: General requirements for accreditation includes the following points regarding conflicts of interest:

(i) Not certifying a production or handling operation if the certifying agent or a responsibly connected party of such certifying agent has or has held a commercial interest in the production or handling operation, including an immediate family interest or the provision of consulting services, within the 12-month period prior to the application for certification;

(ii) **Excluding any person, including contractors, with conflicts of interest from work, discussions, and decisions in all stages of the certification process** and the monitoring of certified production or handling operations for all entities in which such person has or has held a commercial interest, including an immediate family interest or the provision of consulting services, within the 12-month period prior to the application for certification;

(iii) **Not permitting any employee, inspector, contractor, or other personnel to accept payment, gifts, or favors of any kind, other than prescribed fees**, from any business inspected: Except, That, a certifying agent that is a not-for-profit organization with an Internal Revenue Code tax exemption or, in the case of a foreign certifying agent, a comparable recognition of not-for-profit status from its government, may accept voluntary labor from certified operations; [emphasis added]

We contend that FOG and QCS are a single operation attempting to show independence through the creation of a separate name and website for a program managed and funded by FOG. As a result, FOG appears to be in violation of the requirements for accreditation of certifying agents because of its intimate working relationship with QCS.

Alleged Conflicts of Interest:

- IRS Form 990 is filed annually by Florida Certified Organic Growers and Consumers Inc. (FOG) and indicates that FOG is also doing business as Quality Certification Services.¹
- QCS is the certification program of Florida Certified Organic Growers and Consumers Inc., a nonprofit organization that began certifying organic growers in 1987 and received its USDA accreditation in 2001.²
- We also contend that FOG, the nonprofit organization, and the certification

¹ <https://projects.propublica.org/nonprofits/organizations/593006664/202333129349300528/full>

² <https://qcsinfo.org/about-us/>

program, QCS, operate separate websites from the following domains, <https://foginfo.org/> and <https://qcsinfo.org/>, in order to give the appearance that they are separate business operations.

- Ramkrishnan (Ram) Balasubramanian, Executive Director, is the head of FOG, a 503(1)(c) non-profit, and is listed as Chief Executive Officer of QCS, which is an organic certification program wholly managed by FOG.³
- Both FOG and QCS operate from the same physical address⁴ however with separate telephone numbers and email formats:
5700 SW 34TH Street, Suite 349
Gainesville, FL 32608
- While FOG's staff and QCS' staff are listed separately on their respective websites, FOG reports 59 employees across all its programs on the IRS 2022 Form 990.⁵ This appears to include QCS staff.
- FOG's Sponsorship Programs⁶ offer a range of marketing programs priced as low as \$800 for simple targeted marketing programs and as high as \$10,000 for various types of event sponsorship. Those funds are directed to FOG for daily operation of the business, including the operation of FOG's certification program, QCS.
- Top "partners,"⁷ (major donors) including organizations that are certified by QCS or market OMRI-listed products, include:
 - Uncle Matt's (juices): QCS
 - Frog Song Organics: QCS
 - Sweetwater Organic Coffee: QCS
 - Orlando Brewing Partners: QCS (Suspended)
 - Everlizer: OMRI-listed fertilizer
 - Nature Safe Fertilizer: OMRI-listed fertilizer
 - Ag Nutrients: OMRI-listed nutrient inputs
 - ICL Group, a leading global specialty minerals company: OMRI-listed fertilizer

Conclusion

United States Code 7 USC 6515⁸: Requirements of certifying agents includes the following points regarding conflicts of interest.

Any certifying agent shall not:

(1) carry out any inspections of any operation in which such certifying agent, or employee of such certifying agent has, or has had, a commercial interest, including the provision of consultancy services;

(2) accept payment, gifts, or favors of any kind from the business inspected other than prescribed fees; or

³ <https://foginfo.org/about/our-team/> and <https://qcsinfo.org/staff/>

⁴ <https://foginfo.org/contact-us/> and <https://qcsinfo.org/contact-us-2/>

⁵ <https://projects.propublica.org/nonprofits/organizations/593006664/202333129349300528/full>

⁶ <https://foginfo.org/wp-content/uploads/2024/05/PDF-FOG-Sponsorship-Opportunities-.pdf>

⁷ <https://foginfo.org/about/our-partners-2/>

⁸ <https://uscode.house.gov/view.xhtml?path=/prelim@title7/chapter94&edition=prelim>

(3) provide advice concerning organic practices or techniques for a fee, other than fees established under such program.

There is no true independence for QCS, FOG's certification program. These entities reside at the same business address (including suite number) and share staff and funds across business units. Government grants, advertising revenue, and volunteer hours funnel value through FOG to the QCS certification program and other FOG programs.

We respectfully submit that the matters detailed above provide the basis for a broad investigation into the activities of the USDA's National Organic Program and its failure to enforce federal regulations put into place to avoid any conflicts of interest between accredited certifiers and their certified operations.

Please note that this formal request for an investigation represents the third such communication to your office alleging very similar violations by three of the largest accredited organic certifiers in the nation. Our prior correspondence with your office concerned alleged improprieties at CCOF (sent in November 2023) and Oregon Tilth (sent in March 2024).

Thank you for considering these additional facts emanating from research by our staff subsequent to the filing of our initial request.

Please keep us informed of the status of this request.

Sincerely,

Mark Kastel
Executive Director

OrganicEye
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